

GENOVA & MALIN  
Attorneys for Debtor  
Hampton Business Center  
1136 Route 9  
Wappingers Falls, New York 12590  
(845) 298-1600  
Thomas Genova, Esq. (TG4706)  
Andrea B. Malin, Esq. (AM4424)

**DATE: MARCH 11, 2008**  
**TIME: 10:30 A.M.**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
POUGHKEEPSIE DIVISION

-----X

In re

ANN-MARIE WESTRIDGE,

**CHAPTER 13**  
**CASE NO. 07-35257 (CGM)**

Debtor.

-----X

**NOTICE OF MOTION TO COMPEL OR PRECLUDE THE CLAIMANT  
ON THE EVIDENCE, TO STRIKE THE CLAIMANT'S OPPOSITION AND  
FOR AWARD OF ATTORNEYS' FEES, COSTS AND DISBURSEMENTS**

\_\_\_\_\_ **PLEASE TAKE NOTICE** that upon the annexed Motion of GENOVA & MALIN, the attorneys for the debtor, ANN-MARIE WESTRIDGE, herein, dated February 19, 2008, the undersigned will move this Court, at the United States Bankruptcy Court, 355 Main Street, Poughkeepsie, New York, on March 11, 2008 at 10:30 a.m., or as soon thereafter as counsel can be heard, for an Order, pursuant to Federal Rule of Civil Procedure 37(a), compelling claimant, STEVEN FORD, to comply with debtor's discovery requests for document and interrogatory production within five (5) days of the entry of an Order or precluding the claimant on the evidence and striking the claimant's opposition, with prejudice, for debtor's attorney fees, costs and disbursements of this motion, and for such other and further relief as to this Court may seem just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, shall be served upon and received by counsel for the debtor, ANN-MARIE WESTRIDGE, at the address indicated below and filed with the Court together with proof of such service, no later than three (3) days prior to the return date hereof.

Dated: Wappingers Falls, New York  
February 19, 2008

GENOVA & MALIN  
Attorneys for Debtor,  
Ann-Marie Westridge

By: /s/Andrea B. Malin  
ANDREA B. MALIN (AM4424)  
Hampton Business Center  
1136 Route 9  
Wappingers Falls, New York 12590  
(845) 298-1600

GENOVA & MALIN  
Attorneys for Debtor  
Hampton Business Center  
1136 Route 9  
Wappingers Falls, New York 12590  
(845) 298-1600  
Thomas Genova, Esq. (TG4706)  
Andrea B. Malin, Esq. (AM4424)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK  
POUGHKEEPSIE DIVISION

-----X

In re

ANN-MARIE WESTRIDGE,

**CHAPTER 13**  
**CASE NO. 07-35257 (CGM)**

Debtor.

-----X

**AFFIRMATION IN SUPPORT OF MOTION TO COMPEL OR  
PRECLUDE THE CLAIMANT ON THE EVIDENCE, TO  
STRIKE THE CLAIMANT'S OPPOSITION AND FOR  
ATTORNEYS' FEES, COSTS AND DISBURSEMENTS**

**TO HONORABLE CECELIA G. MORRIS, UNITED STATES BANKRUPTCY JUDGE:**

The Motion of ANN-MARIE WESTRIDGE (the "debtor"), by her attorneys,  
GENOVA & MALIN, respectfully alleges:

1. On February 27, 2007, the debtor filed a petition for relief under Chapter 7 of the United States Bankruptcy Code which was converted to a case under Chapter 13 of the Code on April 20, 2007.
2. On June 29, 2007, the claimant filed an Objection to Conf of the Debtor's Chapter 13 Plan.
3. On October 16, 2007, the debtor filed opposition to same.
4. Thereafter on October 24, 2007, the debtor filed a Motion to Expunge the

claim filed by claimant.

5. On December 3, 2007, the claimant filed opposition to debtor's Motion.

6. On December 11, 2007, the parties had a hearing before this Court at which time both contested matters were consolidated for the purpose of further litigation and evidentiary hearing, as each represented similar issues with the same common nucleus of fact.

7. On December 21, 2007, a Scheduling Order was entered by this Court.

8. On December 31, 2008, the debtor served upon claimant the following:  
Request for Production of Documents, Request for Interrogatories and a Request for Admissions, pursuant to the Federal Rules of Civil and Bankruptcy Procedure. Claimant's response was due on or before January 31, 2008.

9. On February 5, 2008, a Pre-Trial Conference was held during which it was agreed by the parties that said Pre-Trial Conference would be treated as an informal discovery conference pursuant to S.D.N.Y. Local Rules and that the debtor would file the instant motion.

10. At the hearing, claimant offered no response or justification for the failure to comply with the debtor's discovery requests and did not request further time to respond.

11. The discovery requests are necessary to prepare a proper case for the debtor in this proceeding.

12. The claimant does not have a valid objection to the debtor's request for this discovery and none has been advanced by claimant.

13. The debtor is entitled to the information requested. The requested information is well within the scope of discovery pursuant to Federal Rule of Civil Procedure 26

and 30.

14. Accordingly, the debtor respectfully requests that an Order be entered herein precluding the claimant on the evidence and striking the claimant's objection to confirmation and opposition to debtor's motion to expunge claim, with prejudice.

15. Moreover, to date, the debtor requests that this Court award to her the sum of ONE THOUSAND EIGHT HUNDRED FORTY DOLLARS (\$1,840.00) in attorneys fees for the preparation of this motion. To date, the sum of six (6) hours of partner time has been expended on this file in preparation and prosecution of this motion. The sum of two (2) hours has been expended on this file in preparation and prosecution of this motion by the firm's paralegal. The firm's billing rate for partner time is \$275.00 per hour and paralegal time is billed at \$95.00 per hour.

16. This motion was served upon three (3) parties which required the firm of GENOVA & MALIN to incur copy costs in the sum of NINE DOLLARS AND 00/100 (\$9.00) and postage fees in the sum of THREE DOLLARS AND FORTY-TWO CENTS (\$3.42) all totaling the sum of TWELVE DOLLARS AND FORTY-TWO CENTS (\$12.42).

17. The debtor reserves the right to further implement the fee request based upon any additional hours expended.

**WHEREFORE**, the debtor requests that the Court enter an Order pursuant to Federal Rule of Bankruptcy Procedure 37(a) precluding the claimant from producing evidence at trial or any hearing hereinafter held, striking the claimant's Objection to Confirmation and Opposition to Debtor's Motion Objecting to Claims, with prejudice, and awarding to the debtor her attorneys' fees in the sum of ONE THOUSAND EIGHT HUNDRED FORTY DOLLARS

(\$1,840.00) and costs and disbursements in the sum of TWELVE DOLLARS AND FORTY-TWO CENTS (\$12.42) for this motion, all totaling the sum of ONE THOUSAND EIGHT HUNDRED FIFTY TWO DOLLARS AND FORTY-TWO CENTS (\$1,852.42) and for such other and further relief as to this Court may seem just and proper.

Dated: Wappingers Falls, New York  
February 19, 2008

GENOVA & MALIN  
Attorneys for Debtor

By: /s/ Andrea B. Malin  
ANDREA B. MALIN (AM4424)  
Hampton Business Center  
1136 Route 9  
Wappingers Falls, New York 12590  
(845) 298-1600

Affirmed this 19<sup>th</sup> day of February, 2008